

provided for carriage of any other type of standard television signal.

(d) Each qualified local noncommercial educational television station whose signal is carried shall be provided with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried.

(e) Each commercial broadcast television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

(f) Each qualified local NCE television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

#### **§ 76.64 Retransmission consent.**

(a) After 12:01 a.m. on October 6, 1993, no multichannel video programming distributor shall retransmit the signal of any commercial broadcasting station without the express authority of the originating station, except as provided in paragraph (b) of this section.

(b) A commercial broadcast signal may be retransmitted without express authority of the originating station if—

(1) The distributor is a cable system and the signal is that of a commercial television station (including a low-power television station) that is being carried pursuant to the Commission's must-carry rules set forth in § 76.56;

(2) The multichannel video programming distributor obtains the signal of a superstation that is distributed by a satellite carrier and the originating station was a superstation on May 1, 1991, and the distribution is made only to areas outside the local market of the originating station; or

(3) The distributor is a satellite carrier and the signal is transmitted directly to a home satellite antenna, provided that:

(i) The broadcast station is not owned or operated by, or affiliated with, a broadcasting network and its signal was retransmitted by a satellite carrier on May 1, 1991, or

(ii) The broadcast station is owned or operated by, or affiliated with a broadcasting network, and the household receiving the signal is an unserved household.

(c) For purposes of this section, the following definitions apply:

(1) A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing;

(2) A superstation is a television broadcast station other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier;

(3) An unserved household with respect to a television network is a household that

(i) Cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network, and

(ii) Has not, within 90 days before the date on which that household subscribes, either initially or on renewal, received secondary transmissions by a satellite carrier of a network station

affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with the network.

(4) A primary network station is a network station that broadcasts or rebroadcasts the basic programming service of a particular national network;

(5) The terms “network station,” and “secondary transmission” have the meanings given them in 17 U.S.C. 111(f).

(d) A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, or a satellite master antenna television system operator, that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) The retransmission consent requirements of this section are not applicable to broadcast signals received by master antenna television facilities or by direct over-the-air reception in conjunction with the provision of service by a multichannel video program distributor provided that the multichannel video program distributor makes reception of such signals available without charge and at the subscribers option and provided further that the antenna facility used for the reception of such signals is either owned by the subscriber or the building owner; or under the control and available for purchase by the subscriber or the building owner upon termination of service.

(f) Commercial television stations are required to make elections between retransmission consent and must-carry status according to the following schedule:

(1) The initial election must be made by June 17, 1993.

(2) Subsequent elections must be made at three year intervals; the second election must be made by October 1, 1996 and will take effect on January 1, 1997; the third election must be made by October 1, 1999 and will take effect on January 1, 2000, etc.

(3) Television stations that fail to make an election by the specified deadline will be deemed to have elected

must carry status for the relevant three-year period.

(4) New television stations shall make their initial election any time between 60 days prior to commencing broadcast and 30 days after commencing broadcast; such initial election shall take effect 90 days after they are made.

(5) Television broadcast stations that become eligible for must carry status with respect to a cable system or systems due to a change in the market definition may, within 30 days of the effective date of the new definition, elect must-carry status with respect to such system or systems. Such elections shall take effect 90 days after they are made.

(g) If one or more franchise areas served by a cable system overlaps with one or more franchise areas served by another cable system, television broadcast stations are required to make the same election for both cable systems.

(h) On or before each must-carry/retransmission consent election deadline, each television broadcast station shall place copies of all of its election statements in the station's public file, and shall send via certified mail to each cable system in the station's defined market a copy of the station's election statement with respect to that operator.

(i) Notwithstanding a television station's election of must-carry status, if a cable operator proposes to retransmit that station's signal without according the station must-carry rights (*i.e.*, pursuant to § 76.56(f)), the operator must obtain the station's express authority prior to retransmitting its signal.

(j) A cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems must give 90 days notice of its intention to do so to any television broadcast stations that have elected must-carry status with respect to one system and retransmission consent status with respect to the other. If the system and the station do not agree on a uniform election 45 days prior to integration, the cable system may require the station to make such a uniform election 30 days prior to integration.

(k) Retransmission consent agreements between a broadcast station and a multichannel video programming distributor shall be in writing and shall specify the extent of the consent being granted, whether for the entire signal or any portion of the signal.

(l) A cable system commencing new operation is required to notify all local commercial and noncommercial broadcast stations of its intent to commence service. The cable operator must send such notification, by certified mail, at least 60 days prior to commencing cable service. Commercial broadcast stations must notify the cable system within 30 days of the receipt of such notice of their election for either must-carry or retransmission consent with respect to such new cable system. If the commercial broadcast station elects must-carry, it must also indicate its channel position in its election statement to the cable system. Such election shall remain valid for the remainder of any three-year election interval, as established in § 76.64(f)(2). Noncommercial educational broadcast stations should notify the cable operator of their request for carriage and their channel position. The new cable system must notify each station if its signal quality does not meet the standards for carriage and if any copyright liability would be incurred for the carriage of such signal. Pursuant to § 76.57(e), a commercial broadcast station which fails to respond to such a notice shall be deemed to be a must-carry station for the remainder of the current three-year election period.

(m) Exclusive retransmission consent agreements are prohibited. No television broadcast station shall make an agreement with one multichannel distributor for carriage, to the exclusion of other multichannel distributors.

(n) A multichannel video programming distributor providing an all-band FM radio broadcast service (a service that does not involve the individual processing of specific broadcast signals) shall obtain retransmission consents from all FM radio broadcast stations that are included on the service that have transmitters located within 92 kilometers (57 miles) of the receiving antenna for such service. Stations outside of this 92 kilometer (57 miles)

radius shall be presumed not to be carried in an all-band reception mode but may affirmatively assert retransmission consent rights by providing 30 days advance notice to the distributor.

[58 FR 17363, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

#### § 76.67 Sports broadcasts.

(a) No community unit located in whole or in part within the specified zone of a television broadcast station licensed to a community in which a sports event is taking place, shall, on request of the holder of the broadcast rights to that event, or its agent, carry the live television broadcast of that event if the event is not available live on a television broadcast signal carried by the community unit meeting the criteria specified in §§ 76.5(gg)(1) through 76.5(gg)(3) of this part. For purposes of this section, if there is no television station licensed to the community in which the sports event is taking place, the applicable specified zone shall be that of the television station licensed to the community with which the sports event or team is identified, or, if the event or local team is not identified with any particular community, the nearest community to which a television station is licensed.

(b) Notification of the programming to be deleted pursuant to this section shall include the following information:

(1) As to programming to be deleted from television broadcast signals regularly carried by the community unit:

(i) The name and address of the party requesting the program deletion;

(ii) The date, time and expected duration of the sports event the television broadcast of which is to be deleted;

(iii) The call letters of the television broadcast station(s) from which the deletion is to be made.

(2) As to programming to be deleted from television broadcast signals not regularly carried by the community unit:

(i) The name and address of the party requesting the program deletion;

(ii) The date, time and expected duration of the sports event the television broadcast of which is to be deleted.

(c) Notifications given pursuant to this section must be received, as to